

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**BOARD OF ZONING ADJUSTMENT**



Application No. 13722 of Harry D. Sawyer and William F. Chatmon, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the prohibition against allowing a subdivision which will not meet the yard requirements (Sub-section 1302.2) and the rear yard requirements (Sub-section 3304.1) for a proposed subdivision and exchange of property between the owners of two adjoining existing single family detached dwellings in an R-5-A District at the premises 303 - 42nd Street, N.E. and 4204 Clay Street, N.E. (Square 5088, Lots 130 and 129).

HEARING DATE: April 14, 1982

DECISION DATE: April 14, 1982 (Bench Decision)

FINDINGS OF FACT:

1. The subject properties are located on the northeast corner of the intersection of 42nd and Clay Streets, N.E. and are known as premises 303 42nd Street and 4204 Clay Street, N.E. They are zoned R-5-A.
2. Each of the subject lots is improved with a one-story frame single family detached dwelling.
3. The subject lots are irregularly shaped. Lot 130, which fronts on 42nd Street, is fifty feet wide for a depth of sixty-five feet to the east, then projects further east for an additional 55.29 feet at a width of approximately twenty feet. Lot 129 is immediately adjacent to the southern boundary of Lot 130 and fronts on Clay Street. It has a width of 109.91 feet along Clay Street. Approximately sixty-five feet of the western portion of that frontage has a depth of approximately twenty-five feet to the north. The remaining frontage extends to the north 73.50 feet at a width of approximately fifty-five feet. The existing rear yard and eastern side yard of Lot 129 are presently non-conforming.
4. The applicants testified that the irregular shape of the subject lots is due to the need, at the time of construction in 1922, to provide each dwelling with an entrance to the alley to permit access to each dwelling from the alley by coal trucks. Both applicants presently have gas heat in their dwellings.

5. Both applicants have owned and resided on their respective lots in excess of forty years. During this time the owner of lot 130 has used the narrow portion of the Clay Street frontage as part of his side yard and the owner of Lot 129 has used the narrow northeastern portion of Lot 130 as part of his backyard.

6. The owner of Lot 129 proposes to make improvements on the portion of Lot 130 which is contiguous to, and which he has been using as, his rear yard.

7. The applicants propose to subdivide the lots in accordance with Exhibit No. 3 of the record. This subdivision would, in effect, add the northeastern portion of the rear yard of Lot 130 to the rear yard of Lot 129 and would add the narrow portion of the Clay Street frontage which is part of Lot 129 to the southern side yard of Lot 130.

8. The shape of each of the subject lots resulting from the proposed subdivision would be generally rectangular.

9. The subdivision of the subject lots would result in a rear yard on Lot 130 of 6.80 feet instead of the twenty feet required by the Zoning Regulations.

10. There was no opposition to the application at the public hearing or in the record.

11. There was no report received from Advisory Neighborhood Commission 7D.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record the Board concludes that the requested relief is an area variance, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates a practical difficulty for the owner. The Board concludes that the present configuration of the lots constitutes an exceptional condition in that that configuration was required to meet a need which no longer exists as evidenced in Finding of Fact No. 4. The Board further notes that the actual use of the land, as evidenced in Finding of Fact No. 5, has been identical to the proposed subdivision and no adverse conditions have arisen out of this use as evidenced by the lack of opposition to this application.

The Board concludes that the denial of the application would result in a practical difficulty upon the owners of the subject lots in that Lot 129 could not be further improved as is proposed because of the existing

non-conformity of the rear yard of the lot. The Board concludes that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and maps. It is therefore ORDERED that the application is GRANTED with the condition that the proposed sub-division shall be in accordance with Exhibit No. 3 of the record.

VOTE: 4-0 (Walter B. Lewis, Connie Fortune, William F. McIntosh and Douglas J. Patton to GRANT;  
Charles R. Norris, not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:   
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: JUL 29 1982

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.